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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
NEWARK VICINAGE

SHANGHAI EIDIE INTERNATIONAL  
TRADING CO. LTD,  
Plaintiff,  
vs.  
TRANSMODAL CORPORATION, SHANGHAI  
HANBO INTERNATIONAL LOGISTIC  
CO. LTD D/B/A E.L.G. SHANGHAI  
LTD, ANDEVER-LEADING  
INTERNATIONAL INC.,  
Defendants.

Case No.:

VERIFIED COMPLAINT BASED ON  
MARITIME CONTRACTS AND DEMAND  
FOR JURY TRIAL FOR CLAIMS IF  
ANY UNDER RULE 38(a)

Plaintiff, SHANGHAI EIDIE INTERNATIONAL TRADING CO. LTD ("EIDIE" or "plaintiff"), by and through its attorneys, Law Offices of Hanbin Wang, complaining of the Defendants, TRANSMODAL CORPORATION ("TMC"), SHANGHAI HANBO INTERNATIONAL LOGISTIC CO.LTD D/B/A E.L.G. SHANGHAI LTD, AND EVER-LEADING INTERNATIONAL INC., (collectively "ELG" for the last two defendants) by way of Verified Complaint alleges as follows:

## I. PARTIES

1. At all material times, plaintiff, SHANGHAI EIDIE INTERNATIONAL TRADING CO. LTD was and still is a corporation

1 organized under the laws of China and having its principal  
2 place of business located at Room 1304, #1725 Huang Xing Road,  
3 Shanghai, China.

4 2. At all material times, plaintiff was engaged in the business  
5 of manufacturing and exporting merchandise out of China to  
6 countries such as United States and was the shipper, the owner  
7 and the real party in interest of the six-hundred and sixty-two  
8 (662) cartons of leather clothing ("cargo") with an invoice  
9 price of \$269,505.42 under the seven (7) House Bills of Lading  
10 ("Bill") issued by the Defendant, TMC on October 2, 12 and 21,  
11 2011 respectively for transportation by sea from Shanghai to  
12 Los Angeles/Long Beach, California.

13 3. At all material times and at the time of filing this action,  
14 plaintiff did not and do not transact business in this judicial  
15 district. Plaintiff was requested to hire TMC by one of TMC's  
16 import customers, Swaxx Corporation which was organized under  
17 the laws of the State of New York ("Swaxx"), for the  
18 transportation of the cargo purchased by Swaxx on a letter of  
19 credit.

20 4. At material times, defendant, TRANSMODAL CORPORATION, was  
21 and is still a corporation organized under the laws of the State  
22 of Massachusetts with its principal place of business located  
23 at 48 South Franklin Turnpike, Suite 202-204, Ramsey, New  
24 Jersey 07446.

1       5. At all material times, TMC was a U.S.-registered Non Vessel  
2       Operator Common Carrier ("NVOCC"), or what is commonly known as  
3       a "freight forwarder." TMC was also a Customs House Brokerage  
4       firm ("CHB").

5       6. As an NVOCC, TMC does not own the vessels (whether ocean  
6       going or air) by which TMC by itself or through agents around  
7       the world, arranges the passage of its customer's freight,  
8       which is typically encased in transport containers of the type  
9       found on ocean going container ships, or being pulled by  
10       tractor trailers on U.S. and foreign highways.

11       7. As an NVOCC, TMC by itself or through its agents around the  
12       world, receives a master bill of lading issued by the vessel  
13       owner, designating TMC as the consignee to receive the  
14       freight at the U.S. delivery ports. TMC issues its own House  
15       Bill of Lading in connection with the corresponding master bill  
16       of lading, designating the consignee according to the shipper's  
17       instruction.

18       8. TMC's CHB business involves the clearance of freight through  
19       United States Customs. TMC accomplishes this CHB function by  
20       paying customs duties for and on behalf of customers, and by  
21       receiving the freight from the vessel owner according to the  
22       master bill of lading, and by moving their freight from bonded  
23       to general warehouses. Ultimately TMC moves freight into the  
24       hands of consignees designated on TMC's Bills.

1       9. Some of TMC's ancillary services include warehousing, inland  
2        transportation of freight by truck and related services  
3        including packaging, labeling, back office facilities, real  
4        time computer logistics, and essentially full service movement  
5        of freight from point "A" to point "B" by whatever legal means  
6        the customer requires.  
7

8       10. The majority of TMC's operations involve the importation of  
9        goods from overseas on behalf of importer customers by way of  
10       ocean going container vessels.

11       11. TMC also employs independent affiliates acting as TMC's  
12        agents located in various countries, including China and India.

14       12. At all material times, defendant, SHANGHAI HANBO  
15        INTERNATIONAL LOGISTIC CO. LTD D/B/A E.L.G. SHANGHAI LTD was a  
16        corporation organized under the laws of China and with its  
17        principal place of business located at Room 1407, Global New  
18        Times Plaza, #1666 North Si Chuan Road, Shanghai, China, was a  
19        China-registered Non Vessel Operator Common Carrier ("NVOCC"),  
20        or what is commonly known as a "freight forwarder," and was an  
21        agent for Defendant TMC for all TMC's U.S. in-bound shipments  
22        from China, especially for those shipments of the TMC's  
23        importer customer Swaxx.  
24

25       13. At all material times, defendant, EVER-LEADING INTERNATIONAL  
26        INC. was a corporation organized under the laws of the State of  
27        California and with its places of business both at Room 1407,

1 Global New Times Plaza, #1666 North Si Chuan Road, Shanghai,  
2 China and at 1320 North San Gabriel Blvd., Rosemead,  
3 California, was a U.S.-registered Non Vessel Operator Common  
4 Carrier ("NVOCC"), or what is commonly known as a "freight  
5 forwarder," and was a subsidiary of defendant, SHANGHAI HANBO  
6 INTERNATIONAL LOGISTIC CO. LTD D/B/A E.L.G. SHANGHAI LTD.  
7

8

9 **II. JURISDICTION AND VENUE**

10 14. This Court has original jurisdiction over the subject matter  
11 of this action pursuant to Article III, Section 2, U.S.  
12 Constitution, and 28 U.S.C. §1331 (federal question), §1333  
13 (maritime) and F. R. Civ. P. 9(h)(maritime) as this matter  
14 relates to maritime contracts for the carriage of goods by sea  
15 to ports of the United States in foreign trade and thus comes  
16 under the laws of the Carriage of Goods by Sea Act ("COGSA"),  
17 46 U.S.C. §30701, and the federal maritime common law as it  
18 applies to international carriers and transportation.  
19

20 15. Also the Clause Paramount of TMC's Bill specifically  
21 subjects all the shipments under the 7 Bills to be governed by  
22 COGSA to the extent that TMC's Bill's terms are trumped by  
23 COGSA if they are inconsistent with COGSA.  
24

25 16. TMC's Bill further specifically extends the application of  
26 COGSA beyond tackle to tackle to cover period after cargo being  
27 discharged from ocean vessels until proper delivery is made.  
28

1       17. The terms of the Bill, especially those concerning TMC's  
2       absolution and limitation of its liabilities are not enforceable  
3       because they are violating COGSA.

4       18. Plaintiff did not have adequate notice or fair opportunity  
5       to opt out of the adverse effects of those terms.

6       19. The terms should be strictly interpreted against TMC.

7       20. Subject matter jurisdiction over remaining non-federal claims  
8       if any are based on the Court's supplemental jurisdiction  
9       pursuant to 28 U.S.C. §1367.

10       21. This Court has personal jurisdiction over each of the  
11       Defendants. Since all materials times, defendant TMC has  
12       conducted business in and has had continuous and systematic  
13       contacts with this federal judicial district. Defendant ELG has  
14       had minimum contacts with this federal judicial district by  
15       acting as agent of TMC such that the maintenance of this action  
16       does not offend traditional notions of fair play and  
17       substantial justice. The claims against ELG are directly  
18       related to and/or arise out of ELG's contacts with this federal  
19       judicial district.

20       22. On information and belief, ELG also has consented to the  
21       personal jurisdiction of this judicial district by way of  
22       agency agreement with TMC.

23       23. Venue is proper in this District pursuant to 28 U.S.C. §§  
24       1391(b)(1) because defendant TMC is a resident of this federal

judicial district.

### III. FACTUAL ALLEGATIONS

24. Between September and October 2011, EIDIE consigned the cargo in good order and condition to TMC's agent in Shanghai ELG, which accepted under the authority and approval by Keith Block, Paul Wong, Grace Quintana, Christopher Peterson and Max Kantzer, all TMC's officers and employees, for transportation by sea from Shanghai to Los Angeles/Long Beach, California.

25. In return, TMC through its agent in Shanghai - ELG, issued to EIDIE the above mentioned 7 original Bills with the same authority and approval. A copy of the front of the Bills plus corresponding invoices and packing lists are attached as Exhibit A.

26. TMC was specifically notified by EIDIE and specifically noted by agreement on the 7 Bills that the consigned cargo was the subject of a sale to Swaxxunder the payment term of at sight letter of credit against original Bills among other documents.

27. The buyer of the cargo Swaxx must pay the full invoice price in exchange for the original Bills to pick up the cargo from TMC in Los Angeles/Long Beach. No original Bills, no delivery or no authority to delivery by TMC.

1 28. As a result of above specific instruction by EIDIE and of  
2 TMC's specific agreement to such instruction, under the TMC's 7  
3 original Bills, the consignee was all "to the order of RBS  
4 Citizen, N.A.," the Swaxx's bank. "To notify party" was all  
5 "Swaxx Corporation."  
6

7 29. Between October and November 2011, RBS Citizen, N.A.  
8 refused payment under the letter of credit and returned all 7  
9 original Bills back to EIDIE, who is still in possession of the  
10 7 original Bills.  
11

12 30. The cargo was delivered in good order and condition to the  
13 exclusive custody, care and possession of TMC through its agent  
14 in Shanghai - ELG, and loaded on board ocean vessels booked by  
15 TMC through its agent ELG, on October 2, 12 and 21 2011  
16 respectively. Such delivery to ELG was acknowledged and  
17 recognized as if to TMC through various e-mails by Keith Block,  
18 Paul Wong, Grace Quintana, Christopher Peterson and Max  
19 Kantzer, all TMC's officers and employees.  
20

21 31. Upon cargo's arrival in Los Angeles/Long Beach some ten  
22 plus days after the departure in Shanghai, TMC had not  
23 contacted EIDIE or RBS Citizen, N.A. for authorization to  
24 release without presentation of original Bills and simply  
25 misdelivered the cargo to Swaxx without presentation of  
26 original Bills by either actual misdelivery or by issuing  
27  
28

1 document allowing such misdelivery without any legal authority  
2 under the terms of the Bills.

3 32. Neither EIDIE nor RBS Citizen, N.A. has ever authorized  
4 such misdelivery without presentation of original Bills.

5 33. Bills' numbers are HB11100219 (60 cartons, on board  
6 10/2/11), HB11100205(78 cartons, on board 10/2/11),  
7 HB11100227(17 cartons, on board 10/2/11), HB11100228(122  
8 cartons, on board 10/2/11), HB11100230(37 cartons, 10/12/11),  
9 HB11100243(290 cartons, on board 10/21/11), HB11100244(58  
10 cartons, on board 10/21/11).

11 34. Swaxx admitted by e-mail dated 6/13/12 receiving the  
12 delivery of the cargo in good condition under the seven (7)  
13 Bills by recognizing the validity of the three corresponding  
14 invoices E11JM714, E11JM717 and E11JM718, which remain unpaid  
15 till this day.

16 35. Based on information and belief, TMC acting as a  
17 customhouse broker also cleared the cargo on behalf of Swaxx  
18 through the United States Customs without knowledge and  
19 permission of EIDIE or RBS, Citizen N.A. and through false  
20 representation to the U.S. Customs as to identity of the true  
21 owner of the cargo.

22 36. Based on information and belief, Swaxx has since resold  
23 the cargo to third parties and been insolvent.

24 37. The relationship between the three invoices and the

1 seven(7) Bills are as follows:

2 a. Invoice E11JM714 (Price :\$154,877.40)

3 i. B/L: HB11100219 (60ctns)

4 ii. " " " " " 205 (78ctns)

5 iii. " " " " " 227 (17ctns)

6 iv. " " " " " 228 (122ctns)

7 (Total 277 CTNS, On Board 10/2/11)

8 b. Invoice E11JM717 (Price: \$37,593.12)

9 i. B/L: HB11100230 (37 CTN, On Board 10/12/11)

10 c. Invoice E11JM718 (Price: \$77,034.90)

11 i. B/L: HB11100243 (290ctns)

12 ii. " " " " " 244 (58ctns)

13 (Total 348 CTNS, On Board 10/21/11)

14 Grand Total: \$269,505.42, 662 CTNS.

15 38. As a result of the foregoing, EIDIE has sustained damages in  
16 the amount of \$269,505.42, which was proximately caused by the  
17 gross negligence, carelessness, recklessness, negligent acts  
18 and/or omissions and/or otherwise culpable conduct of the  
19 defendants, their agents and their employees.

20 39. Plaintiff has demanded upon TMC directly and through its  
21 agent ELG, the return of the cargo or in the alternative for  
22 reimbursement of its losses, but defendants have to date failed  
23 and refused to pay some or all of said claim.

24 **IV. CAUSES OF ACTION**

25 **COUNT I**

26 **LIABILITY OF DEFENDANTS UNDER THE CARRIAGE OF GOODS BY SEA ACT**

27 40. Plaintiff incorporates the preceding paragraphs by  
28

1 reference, as if said allegations were set forth at length  
2 herein.

3 41. By virtue of the foregoing, defendants TMC and ELG, jointly  
4 or severally have failed to make proper delivery of the cargo  
5 as a common carrier by sea in Los Angeles/Long Beach and are  
6 liable under the Carriage of Goods by Sea Act, 46 U.S.C. §1300  
7 et seq.

8 WHEREFORE, plaintiff, SHANGHAI EIDIE INTERNATIONAL TRADING  
9 CO., demands that judgment be entered in its favor and against  
10 defendants TRANSMODAL CORPORATION, SHANGHAI HANBO INTERNATIONAL  
11 LOGISTIC CO., LTD D/B/A E.L.G. SHANGHAI LTD AND, EVER-LEADING  
12 INTERNATIONAL INC., jointly and/or severally, in the amount of  
13 \$269,505.42, plus pre-judgment interest from the date of  
14 supposed delivery in Los Angeles/Long Beach and the cost of  
15 this action.

16  
17  
18  
19  
20  
21 **COUNT II**

22 **LIABILITY OF DEFENDANTS FOR BREACH OF MARITIME CONTRACT**

23 42. Plaintiff incorporates the preceding paragraphs by  
24 reference, as if said allegations were set forth at length  
25 herein.

26 43. By virtue of the foregoing, defendants breached its  
27 contractual agreements with plaintiff, and is therefore liable.

28 44. Adequate and prompt notice of the aforesaid breach has been

1 supplied to defendant TMC or its agent, ELG and plaintiff has  
2 at all times materially complied with all obligations under its  
3 contract.

4 WHEREFORE, plaintiff, SHANGHAI EIDIE INTERNATIONAL TRADING  
5 CO., demands that judgment be entered in its favor and against  
6 defendants TRANSMODAL CORPORATION, SHANGHAI HANBO INTERNATIONAL  
7 LOGISTIC CO., LTD D/B/A E.L.G. SHANGHAI LTD AND, EVER-LEADING  
8 INTERNATIONAL INC., jointly and/or severally, in the amount of  
9 \$269,505.42, plus pre-judgment interest from the date of  
10 supposed delivery in Los Angeles/Long Beach and the cost of  
11 this action.

14  
15 **COUNT III**

16 **LIABILITY OF DEFENDANTS FOR BREACH OF FEDERAL MARITIME**

17 **COMMON LAW OF BAILEMENT**

18 45. Plaintiff incorporates the preceding paragraphs by  
19 reference, as if said allegations were set forth at length  
20 herein.

22 46. Plaintiff tendered the aforesaid cargo to defendants in good  
23 and sound condition, for adequate consideration, as a bailment.

24 47. With no fault on the part of plaintiff contributing thereto,  
25 defendants failed and refused to return said cargo to plaintiff  
26 upon demand therefor.

28 48. By virtue of the foregoing, defendants are liable under

1 principles of common law bailment for the misdelivery of the  
2 leather clothing as described above.

3 WHEREFORE, plaintiff, SHANGHAI EIDIE INTERNATIONAL TRADING  
4 CO., demands that judgment be entered in its favor and against  
5 defendants TRANSMODAL CORPORATION, SHANGHAI HANBO INTERNATIONAL  
6 LOGISTIC CO., LTD D/B/A E.L.G. SHANGHAI LTD AND, EVER-LEADING  
7 INTERNATIONAL INC., jointly and/or severally, in the amount of  
8 \$269,505.42, plus pre-judgment interest from the date of  
9 supposed delivery in Los Angeles/Long Beach and the cost of  
10 this action.

12 **V. DEMAND FOR JURY TRIAL**

14 49. Plaintiff hereby demands trial by jury for any and all claims  
15 if any under F. R. Civ. P. 38(a).

17 Dated: October 4, 2012  
18 Newark, New Jersey

19 20 RESPECTFULLY SUBMITTED,

21 *s/Hanbin Wang*  
22 Hanbin Wang, Esq.  
23 Law Offices of Hanbin  
24 Wang  
25 Attorneys for Plaintiff

**PLAINTIFF'S VERIFICATION**

Cunmei Liu, under the penalties of perjury hereby affirms that I am the Legal Person Representative, a/k/a corporate representative of plaintiff Shanghai Eidie International Trading, Co. Ltd under the laws of China. I have full authority to sign and bind legally Shanghai Eidie International Trading, Co. Ltd. I am familiar with the facts and circumstances of this matter. I have read the foregoing Complaint in its Chinese translation and know the contents thereof, and that the same is true to my own knowledge except as to matters therein stated to be alleged on information and belief, and that as to those matters, I believe them to be true. The source of my information is based on my personal involvement in the matter, my conversation with my colleagues and the records maintained in our office.

Dated: October 4, 2012  
Shanghai, China

Cunmei Liu, Legal Person Representative,  
AKA, corporate representative, on behalf of  
Shanghai Eidie International Trading, Co., Ltd.